

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks. Currently, claims 1-33 are pending in the present application of which claims 1, 12, and 23 are independent.

Claims 1-6, 8, 12-17, 19, 23-28, 30 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Lee et al. (U.S. Patent Publication Number 2003/0050086). Claims 7, 9-11, 18, 20-22, 29, and 31-33 were objected to as being dependent upon a rejected base claim, but were indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The above rejections are respectfully traversed for at least the reasons set forth below.

Claim Rejection Under 35 U.S.C. §102

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

Claims 1-6, 8, 12-17, 19, 23-28, 30 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Lee et al. This rejection is respectfully traversed because the claimed invention as set forth in claims 1, 12, and 23 and the claims that depend therefrom are patentably distinguishable over Lee et al.

Claims 1, 12, and 23 recite a maximum likelihood decoder for determining the presence of a packet on a rate indicator channel. The office action alleges that this is shown by Lee et al. because it discloses that “the base station receives the RRI channels at 4 time points, and only one among the 4 RRI channels is properly received...” The applicants assert, however, that this does not relate to the determination of the presence of a packet on a rate indicator channel. Additionally, this fails to show, in any way, the presence of a maximum likelihood decoder. Because Lee et al. fails to show this element of the claims, it fails to teach all of the features of claims 1, 12, and 23 and thus fails to anticipate these claims.

Accordingly, Lee et al. fails to teach all of the features contained in claims 1, 12, and 23, and thus, these claims are believed to be allowable. Claims 2-11 depend upon allowable claim 1, claims 13-22 depend upon allowable claim 12, and claims 24-33 depend upon allowable claim 23 and are also allowable at least by virtue of their dependencies.

Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

While we believe that the instant amendment places the application in condition for allowance, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner telephone the undersigned attorney in order to expeditiously resolve any outstanding issues.

In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our Deposit Account Number 17-0026 and please credit any excess fees to such Deposit Account.

Respectfully submitted,

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